

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF PUERTO RICO

VICTOR DE-CASTRO-VINCENS

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

CIVIL NO. 06-1138 (PG)
RE: CRIM. NO. 04-072

ORDER

Under the AEDPA, no appeal may be taken from a district court's ruling on a Section 2255 motion unless a district or circuit judge issues a Certificate of Appealability ("COA") based upon a "substantial showing" by the prisoner of "the denial of a constitutional right." 28 U.S.C. § 2253(c). Moreover, an appealing petitioner must demonstrate that the issues raised supporting his request for a COA are "'debatable among jurists of reason; that a court could resolve the issues [in a different manner]; or that the questions are "adequate to deserve encouragement to proceed further.'"'" Barefoot v. Estelle, 463 U.S. 880, 883 n.4, 103 S.Ct. 3383, 3394 n.4, 77 L.Ed.2d 1090 (1983) (alteration in original) (quoting Gordon v. Willis, 516 F.Supp. 911, 913 (N.D.Ga. 1980) (quoting United States ex. rel. Jones v. Richmond, 245 F.2d 234 (2nd Cir. 1957))). "The necessity for a substantial showing extends independently to each and every issue raised by a habeas petitioner." Berthoff v. United States, 308 F.3d 124, 127-28 (1st Cir. 2002).

Having reviewed petitioner's arguments in the above captioned matter, the Court holds that they are not supported by a substantial showing, merely rehash issues that have already been raised, and do not present matters on which reasonable jurists would disagree.

Civil No. (PG)

Page 2

Consequently, petitioner's COA must be, and hereby is, **DENIED**.

SO ORDERED.

In San Juan, Puerto Rico, August 25, 2006.

S/JUAN M. PÉREZ-GIMÉNEZ
U.S. DISTRICT JUDGE